

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

OP.No. 22534 of 1999(G)

PETITIONERS:

1. V.K.MALLIKA,
MANAGING PARTNER, JAIRAJ LODGE,
PERUMBAVOOR, ERNAKULAM DISTRICT.
2. K.P.BABY, KONOTHKUDY HOUSE,
IRINGOLE PO,
PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.JOE JOSEPH KOCHIKUNNEL

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE EXCISE COMMISSIIONER, BOARD OF REVENUE,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
3. THE ASSISTANT EXCISE COMMISSIONER, AEC OFFICE,
ERNAKULAM.
4. THE EXCISE INSPECTOR,
PERUMBAVOOR RANGE, ERNAKULAM DISTRICT.
5. KERALA STATE BEVERAGES (MANUFACTURING & MARKETING)
CORPORATION LIMITED, THIRUVANANTHAPURAM
REPRESENTED BY ITS MANAGING DIRECTOR.

BY SPL. GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, ALONG
WITH O.P.22535 AND O.P.22536 OF 1999 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.NO.22534 OF 1999

APPENDIX:

PETITIONER'S EXHIBITS:

EXT.P1- PHOTOCOPY OF THE PUBLICATION OF BUREAU OF INDIAN STANDARD, NEW DELHI IN THE MONTH OF JULY, 1989.

EXT.P2- PHOTOCOPY OF THE PUBLICATION OF BUREAU OF INDIAN STANDARD, NEW DELHI IN THE MONTH OF AUGUST, 1989.

EXT.P3SERIES- PHOTOCOPY OF THE CHEMICAL ANALYSIS REPORT 1-11-1997.

EXT.P4(A) & P4(B)- PHOTOCOPY OF THE NOTICE DATED 17-8-1999 ISSUED TO HTE PETITIONERS BY HTE 4TH RESPONDENT.

EXT.P5- PHOTOCOPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN CMP.NO.44194/98 IN O.P.NO.25137 OF 1998.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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O.P. Nos. 22534, 22535 AND 22536 OF 1999
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Dated this the 17th August , 2007

J U D G M E N T

H.L. Dattu, C.J.:

In all these Original Petitions, common questions of law would arise for consideration and decision of this court . The question of law involved in these Original Petitions is with regard to the validity or otherwise of the Rule 2 of the Foreign Liquor Rules.

2. A Division Bench of this Court had an occasion to consider the vires of the aforesaid Rules. On a detailed consideration of the matter, the Court has upheld the validity of the said Rules.

3. In so far as the prosecution proceedings initiated by the respondents-authorities relying upon S.R.O.No. 326 of 1996, the Division Bench of this Court has observed that those proceedings need not be continued further and secondly, the settled matter need not be re-opened.

4. In view of the above, the following order is made in all these Original Petitions:

O R D E R

- i) Validity of Rule 2 of the Foreign Liquor Rules is upheld.
- ii) It is declared that any prosecution proceedings filed pursuant to S.R.O.No.326 of 1996 need not be continued further. Secondly, the settled matter need not be re-opened.
- iii) Pending Civil Miscellaneous Petitions in these Original Petitions

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are also disposed of.

iv) With these observations and directions , the Original Petitions are disposed of.

Ordered accordingly.

**H.L. DATTU,
CHIEF JUSTICE.**

**K.T. SANKARAN,
JUDGE.**

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K.T. SANKARAN, J.

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